

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

May 15, 2012

In the Matter of MEYERS/WILLIAMS/
LAFEVER, Minors.

No. 305884
Wayne Circuit Court
Family Division
LC No. 10-494119

Before: MURPHY, C.J., and STEPHENS and RIORDAN, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Before terminating a respondent's parental rights, the trial court must make a finding that one of the statutory grounds under MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). As long as one statutory ground is established by clear and convincing evidence, termination of parental rights is proper, even if the court erred in finding sufficient evidence under other statutory grounds. *In re Huisman*, 230 Mich App 372, 384-385; 584 NW2d 349 (1998), overruled in part on other grounds in *In re Trejo Minors*, 462 Mich 341; 612 NW2d 407 (2000). "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). This Court reviews orders terminating parental rights for clear error. MCR 3.977(K); *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). "Clear error signifies a decision that strikes us as more than just maybe or probably wrong." *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009). Clear error exists "if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004). A trial court may consider evidence on the whole record in making its best-interest determination. *In re Trejo*, 462 Mich at 356. The trial court's best-interest determination is also reviewed for clear error. *Id.* at 356-357.

The trial court did not clearly err in finding that MCL 712A.19b(3)(c)(i), (g), and (j) were established by clear and convincing evidence. The conditions that led to petitioner's intervention were allegations of respondent's physical abuse and substance abuse. Her newborn son tested positive for cocaine and opiates at birth. Petitioner received another referral alleging

respondent's physical neglect and abandonment of the children as she had disappeared for three days, returning with a black eye and scratches on her face. Respondent admitted at a pretrial hearing and at the adjudication that she had a substance abuse problem and that her newborn child tested positive for cocaine and opiates. The children were removed from respondent's care and made temporary court wards in May 2010.

Petitioner offered, made available, and provided respondent with family reunification services for purposes of achieving sobriety and emotional stability, correcting her parenting skills deficits, and establishing stability in the home. The treatment or case services plan encompassed (1) substance abuse therapy; (2) random drug screens; (3) parenting classes; (4) a psychological evaluation; (5) a psychiatric evaluation; (6) individual therapy; and (7) supervised parenting time. Respondent was to pursue and utilize all mental health services as recommended in evaluations, obtain and maintain suitable housing and a legal source of income, and to maintain regular contact with petitioner.

The issues concerning respondent's substance abuse, inadequate parenting, and inability to maintain a safe and stable home environment continued to exist after more than a year of reunification services. There was substantial evidence that respondent did not comply with her case services plan. She failed to participate in individual therapy and substance abuse treatment. Respondent provided only 8 of the 51 required drug screens, with unexcused missed screens being treated as positive screens. She actually tested positive for cocaine and benzodiazepines in June 2010. Two screens provided in November 2010 and December 2010 were not completed because of out-of-range temperatures that indicated tampering. Respondent tested positive again for opiates in late December 2010 and tested positive for cocaine and benzodiazepines in June 2011 in the midst of the termination proceedings. Respondent never obtained suitable housing or a legal source of income. Thus, the trial court properly concluded that there was no reasonable likelihood that respondent would be able to resolve the issues that led to the children's removal within a reasonable time considering the children's ages. Accordingly, the decision to terminate parental rights pursuant to MCL 712A.19b(3)(c)(i) did not constitute clear error.

Similarly, without regard to her intent, respondent failed to provide the children with proper care or custody and there was no reasonable expectation that she would be able to do so within a reasonable timeframe. Accordingly, the decision to terminate parental rights pursuant to MCL 712A.19b(3)(g) did not constitute clear error. After more than a year of reunification efforts, respondent remained in the grip of an addiction to drugs, and she lacked suitable housing and financial stability. Moreover, after properly considering the entire record, the trial court did not err in concluding that the children would likely be physically harmed if returned to respondent's care. Accordingly, the decision to terminate parental rights pursuant to MCL 712A.19b(3)(j) did not constitute clear error. She did not comply with the terms or conditions of her case services plan, which is relevant in assessing whether a child will be at risk if placed in the parent's home. *In re Rood*, 483 Mich at 100; MCL 712A.19a(5). Respondent's conduct between the first and second day of the termination hearing frighteningly demonstrated her utter inability to keep children out of harm's way. Respondent was arrested for driving drunk with three young children as passengers. She was unable to keep her balance, had slurred speech, and her blood alcohol level was .158. The trial court did not clearly err in finding that there was a reasonable likelihood that the children would be harmed if placed in respondent's home. MCL 712A.19b(3)(j).

Respondent's assertion that the trial court should have given her more time to comply with the case services plan is unpersuasive. There was credible evidence that respondent, after eight months of reunification efforts, told her caseworker that she no longer wanted to participate in services and moved to Ohio. For more than three months, petitioner made numerous attempts to contact respondent without success. Respondent resurfaced and expressed a desire to re-engage in services, and petitioner made the necessary referrals. Respondent did not follow through with substance abuse therapy and continued to abuse drugs as established by her positive drug screens. Respondent was hospitalized for extreme intoxication after attending her psychiatric evaluation just days before the last termination hearing. After more than a year of failed reunification efforts and missed and positive drug screens, respondent's testimony at the termination hearing that she did not have a substance abuse problem was ample reason for the trial court to properly conclude that additional time for reunification was unwarranted.

The court also properly concluded, after considering the entire court record, that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5); MCR 3.977(H)(3)(b). It was uncontroverted that respondent would not be able to provide a safe and stable environment for the children in the near future because she had not committed herself to achieving sobriety. Termination of respondent's parental rights was in the children's best interests, precluding respondent from undermining the stability that the court was attempting to establish for the children through placement with other family members.

Affirmed.

/s/ William B. Murphy
/s/ Cynthia Diane Stephens
/s/ Michael J. Riordan